

Q & A: Part C Prior Written Notice Requirements

The Minnesota Department of Education (MDE) Division of Compliance and Assistance has developed this document to address questions raised by parents and school districts regarding prior written notice requirements that apply to Part C. The purpose of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal question.

Question 1: Is prior written notice required for Part C service delivery?

Answer: Yes. “Prior written notice must be provided to parents a reasonable time before the lead agency or an early intervention services (EIS) provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of [EIS] to the infant or toddler with a disability and that infant's or toddler's family.” 34 C.F.R. § 303.421(a). Further, notice must be given “in the native language . . . of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so.” 34 C.F.R. § 303.421(c)(1)(ii).

Authority: 34 C.F.R. § 303.421(a).; and 34 C.F.R. § 303.421(c)(1)(ii).

Question 2: What must be included in a prior written notice for Part C?

Answer: The prior written notice “must be in sufficient detail to inform parents about [t]he action that is being proposed or refused; [t]he reasons for taking the action; and [a]ll procedural safeguards . . . , including a description of mediation in C.F.R. § 303.431, how to file a State complaint in §§ 303.432 through 303.434 and a due process complaint in the provisions adopted under § 303.430(d), and any timelines under those procedures.” 34 C.F.R. § 303.421(b).

Authority: 34 C.F.R. § 303.421(b).

Question 3: If a team meeting needs to be rescheduled, must a new notice of team meeting be given?

Answer: Yes. The meeting must be arranged, and notice must be provided in writing, early enough to ensure that all participants are able to attend.

Authority: 34 C.F.R. § 303.342(d)(2).

Question 4: Who must be invited to an Individual Family Service Plan (IFSP) meeting?

Answer: The IFSP meeting must include “the parent or parents of the child, other family members, as requested by the parent . . . , an advocate or person outside the family at the request of the parent, the service coordinator, a person or persons directly involved in conducting the evaluation or assessments . . . and as appropriate, persons who will be providing early intervention services . . . to the child or family.”

Authority: 34 C.F.R. § 303.343(a).

Question 5: Who must be invited to periodic reviews?

Answer: “Each periodic review . . . must provide for the participation of parents, other family members (if any), an advocate (if any), and the service coordinator. If conditions warrant, provisions must be made for the participation of other representatives identified [above in the answer to question 4].”

Authority: 34 C.F.R. § 303.343

Question 6: What must happen if team members are unable to attend an IFSP meeting or periodic review?

Answer: “If team members responsible for completing the evaluations and assessments are unable to attend a meeting, arrangements must be made for the person’s involvement through other means, including one of the following: participating in a telephone conference call, having a knowledgeable authorized representative attend the meeting, or making pertinent records available at the meeting.”

Authority: 34 C.F.R. § 303.343(a)(2).

Question 7: What must be included in a prior written notice for a child exiting Part C who is believed to not be eligible for Part B?

Answer: A prior written notice that proposes exiting a child from Part C services, as with any prior written notice, must include the components outlined in the answer to question 2. In the event that the child has been evaluated for Part B eligibility, but was found not eligible, the notice must include the components of a prior written notice for Part B, which are not identical to Part C components.

Authority: 34 C.F.R. §§ 300.503, 303.421.

August 2013